



CTIA

Building The Wireless Future™

Cellular Telecommunications Industry Association

Michael F. Altschul

Vice President/General Counsel

April 16, 1999

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby, TW-A325
Washington, DC 20554

**Re: *Ex Parte* Presentation
WT Docket No. 96-115**

Dear Ms. Salas:

On April 16, 1999, the Cellular Telecommunications Industry Association (CTIA), represented by Tom Wheeler, President/CEO; the United States Telephone Association (USTA), represented by Lawrence E. Sarjeant, Vice President Regulatory Affairs/General Counsel; the Competitive Telecommunications Association (CompTel), represented by Carol Ann Bischoff, Executive Vice President/General Counsel; the National Telephone Cooperative Association (NTCA), represented by Jill Canfield, Regulatory Counsel; the Organization for the Protection and Advancement of Small Telecommunications Companies (OPASTCO), represented by Stuart Polikoff, Director of Government Relations; the Independent Telephone & Telecommunications Alliance (ITTA), represented by David W. Zesiger, Executive Director; the Independent Alliance and the Rural Cellular Association, represented by Sylvia Lesse, Legal Counsel; and Small Business in Telecommunications, represented by Robert Schwaninger, General Counsel, have attached for filing a letter to Chairman William E. Kennard, Commissioner Susan Ness, Commissioner Michael K. Powell, Commissioner Harold Furchtgott-Roth, and Commissioner Gloria Tristani.

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter and its attachments are being filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Michael F. Altschul

Attachments (1)

No. of Copies rec'd 041
List ABCDE



April 16, 1999

The Honorable William E. Kennard
Chairman
Federal Communications Commission
The Portals, 445 12th Street, SW
Washington, D.C. 20554

The Honorable Susan Ness
Commissioner
Federal Communications Commission
The Portals, 445 12th Street, SW
Washington, D.C. 20554

The Honorable Michael K. Powell
Commissioner
Federal Communications Commission
The Portals, 445 12th Street, SW
Washington, D.C. 20554

The Honorable Harold Furchtgott-Roth
Commissioner
Federal Communications Commission
The Portals, 445 12th Street, SW
Washington, D.C. 20554

The Honorable Gloria Tristani
Commissioner
Federal Communications Commission
The Portals, 445 12th Street, SW
Washington, D.C. 20554

Re: CC Docket No. 96-115; CPNI Electronic Safeguards; Written *Ex Parte*

Dear FCC Chairman and Commissioners:

In anticipation of this matter coming before you shortly on reconsideration, we are writing jointly to emphasize our shared support for the industry's proposed alternative to the "electronic safeguards" requirements adopted in the *Second Report and Order*.¹ The alternative proposal, which was presented to the Common Carrier Bureau earlier this year,² represents the recommendation of a comprehensive, industry-wide coalition of

¹ *Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, 13 FCC Rcd 8061 (1998) ("Second Report and Order").

² See, notice of *ex parte* presentation, letter from Celia Nogales, Ameritech, to Magalie Roman Salas, FCC, Jan 11, 1999 (statement of proposal); letter from Judy Sello, AT&T, to Carol Matthey, FCC, Jan. 12, 1999

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carriers. We are confident that on review you will agree that the proposed alternative safeguards will continue to serve the substantive purposes and requirements of the CPNI rules for the benefit of customers while substantially eliminating costly and unnecessary burdens for carriers.³

In the *Second Report and Order*, the Commission adopted rules and safeguards pursuant to Section 222 of the Communications Act of 1934, as amended, to govern all carriers' use of customer proprietary network information (CPNI). Among the safeguards imposed were: (1) a requirement that carriers develop and maintain an electronic "flag" system to indicate the CPNI approval status of individual customers' records; and (2) a requirement that carriers develop and implement an "electronic audit" mechanism that would track access to customer accounts and that would be capable of recording whenever customer records are opened, by whom, and for what purpose.

Numerous carriers from all segments of the industry filed petitions for reconsideration of these electronic safeguard requirements identifying shortcomings in both their legal foundations (inadequate notice and Regulatory Flexibility Act analysis) and their policy foundations (inadequate cost/benefit analysis; drain on IT resources during Y2K initiatives). Thereafter, ten trade associations "representing virtually the entire industry affected by the CPNI rules"⁴ jointly urged the Commission to defer the enforcement date of the electronic safeguard requirements until after the Commission had reconsidered them on their merits.⁵ On the strength of these filings, the Commission did defer enforcement of these requirements so that the Commission could "consider [alternative] proposals to tailor [the] requirements more narrowly and to reduce burdens on the industry while serving the purposes of the CPNI rules."⁶

(supplementary explanatory letter). A copy of the proposal and the supplementary explanatory letter are attached for your convenience.

³ By joining this letter, none of the signatory associations are changing their positions on any other issues in the CPNI proceeding.

⁴ *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket 96-115, Order, FCC 98-239 (rel. Sept. 24, 1998) ("*Safeguards Deferral Order*").

⁵ See, Letter to Chairman Kennard, Commissioner Powell, Commissioner Tristani, Commissioner Ness, and Commissioner Furchtgott-Roth from PCIA, USTA, CTIA, CompTel, OPASTCO, NRTA, Small Business in Telecommunications, ITTA, ACTA, and NTCA, CC Docket No. 96-115 (filed July 20, 1998).

⁶ *Safeguards Deferral Order* at ¶ 4.

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Subsequently, on the recommendation of and with facilitation by the Common Carrier Bureau,⁷ a diverse group of representatives from the telecommunications industry joined together to propose the attached alternative set of requirements and rule modifications. This proposal squarely meets the Commission's expectations of an alternative approach as set forth in the *Safeguards Deferral Order*. In its essence, the alternative approach affords differently situated carriers the necessary flexibility to adopt cost-effective means of achieving the objectives that underlie the original flagging and audit requirements, in lieu of a rigid "one requirement fits all" approach. Moreover, the proposal replaces the ineffective and costly obligation to track billions of bits of data regarding access to individual records with an annual review of the efficacy of the carrier's CPNI compliance program. Meanwhile, however, nothing in the alternative proposal would "relieve carriers of the underlying obligations to use CPNI in accordance with section 222 and the Commission's [substantive] implementing rules."⁸

Against the backdrop of this industry unanimity, we also note that there has been no significant consumer interest in this proposal, much less opposition to it. At the urging of the Common Carrier Bureau, consumer advocate groups were invited to the initial industry coalition meeting with the Bureau, and they did attend. A copy of the final consensus proposal was also shared with these groups before its formal presentation and submission to the Bureau. To our knowledge, no group has registered any opposition to the industry proposal with the Commission. We attribute this consumer acquiescence, at least in part, to consumer satisfaction with carrier CPNI policies and an indifference to the internal mechanisms employed by individual carriers to implement those rules. These groups likely also appreciate that the massive costs of the current requirements ultimately would be borne by customers, with no commensurately increased benefits over those achievable through the industry proposal.

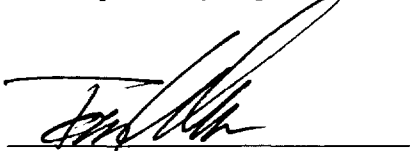
⁷ See, Public Notice, "Common Carrier Bureau Announces Ex Parte Meeting to Discuss Developing an Industry Coalition to Address Software Flagging and Electronic Audit Tracking Requirements of Customer Proprietary Network Information (CPNI)," DA 98-2504 (rel. Dec. 7, 1998).

⁸ *Safeguards Deferral Order* at ¶ 5.

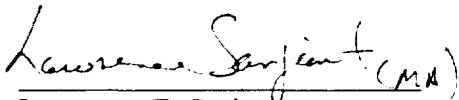
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The Honorable Gloria Tristani

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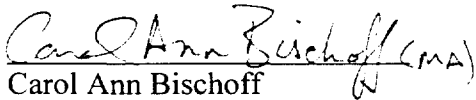
Whatever the reason, the record remains clear: the present flagging and audit requirements should be eliminated in favor of the proposed alternative. We collectively and respectively urge the Commission to take this action on reconsideration.



Thomas E. Wheeler
President & CEO
Cellular Telecommunications Industry
Association (CTIA)



Lawrence E. Sarjeant
Vice President, Regulatory Affairs and
General Counsel
United States Telephone Association
(USTA)




Carol Ann Bischoff
Executive Vice-President and General
Counsel
Competitive Telecommunications
Association (CompTel)

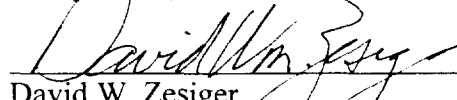


Jill Canfield
Regulatory Counsel
National Telephone Cooperative
Association (NTCA)

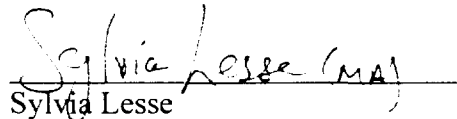
Sincerely,



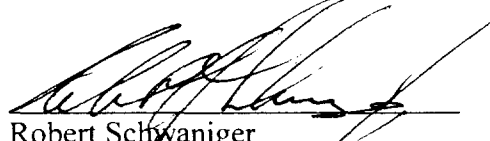
Stuart Polikoff
Director of Government Relations
Organization for the Protection and
Advancement of Small Telecommunications
Companies (OPASTCO)



David W. Zesiger
Executive Director
Independent Telephone &
Telecommunications Alliance (ITTA)



Sylvia Lesse
Legal Counsel
Independent Alliance
Rural Cellular Association



Robert Schwaniger
Principal General Counsel
Small Business in Telecommunications

cc: Thomas Power, Legal Advisor, Office of the Chairman
Ari Fitzgerald, Legal Advisor, Office of the Chairman
Kevin Martin, Legal Advisor, Office of Commissioner Furchtgott-Roth

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Paul Misener, Senior Legal Advisor, Office of Commissioner Furchtgott-Roth
Kyle Dixon, Legal Advisor, Office of Commissioner Powell
Peter A. Tenhula, Legal Advisor, Office of Commissioner Powell
Linda Kinney, Legal Advisor, Office of Commissioner Ness
Dan Connors, Legal Advisor, Office of Commissioner Ness
Paul Gallant, Legal Advisor, Office of Commissioner Tristani
Karen Gulick, Legal Advisor, Office of Commissioner Tristani
Larry Strickling, Chief, Common Carrier Bureau
Bob Atkinson, Deputy Chief, Common Carrier Bureau
Carol Matthey, Chief, Policy Division, Common Carrier Bureau
Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau
Diane Cornell, Associate Bureau Chief, Wireless Telecommunications Bureau
Christopher Wright, General Counsel, FCC
Jeanine Poltronieri, Senior Counsel, FCC

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bcc: Common Carrier Bureau Staff
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Cece Stephens
Florence Grasso

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Nancy Booker
Peter Wolfe